

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1972



ENROLLED

*Committee Substitute
for*

HOUSE BILL No. 1016

(By Mr. Speaker, Mr. Mc Manus)



PASSED March 11, 1972

In Effect from Passage

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

MAR 29 11 35 PM '72

FILED IN THE OFFICE
JOHN D. COMBELLER, IV
SECRETARY OF STATE

THIS DATE 3-29-72

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ENROLLED

COMMITTEE SUBSTITUTE

FOR

House Bill No. 1016

(By Mr. Speaker, MR. McMANUS)

(Originating in the House Committee on the Judiciary)

[Passed March 11, 1972; in effect from passage.]

AN ACT to amend chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article three, providing for implementation of the act of Congress entitled "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970"; defining terms; setting forth a statement of purposes; requiring and authorizing each agency of government to adopt rules and regulations, having the force and effect of law, to implement the provisions of such congressional act and make applicable to such agency the policies and requirements of such congressional act which are pertinent to the mission and functions of such agency; requiring coordination of all such rules and regulations with the office of federal-state relations; providing that certain types of payments shall not be considered as income or resources for certain purposes; setting forth specific provisions for the West Virginia department of highways; relating to the element of value or damage in eminent domain proceedings; authorizing assistance even though the dislocation or acquisition occasioning the

same occurred prior to the effective date of the article if federal funds are available for the payment of such assistance; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article three, to read as follows:

ARTICLE 3. IMPLEMENTATION OF UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970.

§54-3-1. Definitions.

1 As used in this article, the term:

2 (1) "Federal act" means the "Uniform Relocation As-
3 sistance and Real Property Acquisition Policies Act of
4 1970," being Public Law 91-646, enacted by the Ninety-
5 first Congress of the United States of America.

6 (2) "State agency" means the state of West Virginia
7 or any department, agency or instrumentality thereof, or
8 any county, municipality or other political subdivision
9 thereof or any department, agency or instrumentality of
10 any such county, municipality or political subdivision,
11 and, without in any way limiting the generality of the
12 foregoing, includes boards of education, public service
13 districts or any combination of any of the foregoing.

14 (3) "Person" means any individual, partnership, as-
15 sociation or corporation.

§54-3-2. Statement of purposes.

1 The purposes of this article are (1) to require the es-
2 tablishment of a uniform policy for the fair and equitable
3 treatment by state agencies of persons displaced from
4 property in order that such persons shall not suffer dis-
5 proportionate injuries as a result of programs designed
6 for the benefit of the public as a whole and (2) to en-
7 courage and expedite the acquisition of real property or
8 any interest therein by agreements with persons so as to

9 avoid litigation and relieve congestion in the courts, to
10 assure consistent treatment of persons and promote pub-
11 lic confidence in the land acquisition practices of any
12 state agency.

§54-3-3. Implementation of federal act.

1 In order to accomplish the purposes set forth in section
2 two of this article and to satisfy the requirements of sec-
3 tions two hundred ten and three hundred five of such
4 federal act, each state agency is hereby required and is
5 hereby granted plenary power and authority to adopt
6 rules and regulations, which shall have the force and ef-
7 fect of law, to implement the provisions of such federal
8 act and make applicable to such state agency the policies
9 and requirements of such federal act which are pertinent
10 to the mission and functions of such state agency, in-
11 cluding, without in any way limiting the generality of the
12 foregoing, the carrying out of all procedures and the mak-
13 ing of all financial assistance payments, relocation assist-
14 ance payments, replacement housing payments, loans and
15 expense reimbursement payments required by such fed-
16 eral act, subject only to any restrictions or limitations im-
17 posed by the constitution of the state of West Virginia. All
18 rules and regulations promulgated pursuant to the pro-
19 visions of this section shall be coordinated with the of-
20 fice of federal-state relations of this state in order to in-
21 sure uniformity in such rules and regulations, to the
22 fullest extent practicable, as contemplated in section two
23 of this article.

24 No payment of the type referred to in section two hun-
25 dred sixteen of such federal act received by any person
26 under this article and such rules and regulations shall be
27 considered as income or resources for the purpose of
28 determining the eligibility or extent of eligibility of any
29 person for assistance under any state law, or under any
30 state or local tax law or ordinance, and no such payment
31 shall be considered as income or resources of any recipient
32 of public assistance and no such payment shall be de-
33 ducted from the amount of aid to which the recipient
34 would otherwise be entitled.

§54-3-4. Construction; assistance for prior acts.

1 Neither the provisions of this article nor any rules and
2 regulations promulgated pursuant to section three of this
3 article are intended to abrogate or derogate the provisions
4 of section twenty, article two-a, chapter seventeen of this
5 code, and, to the extent not in conflict with said section
6 twenty, the West Virginia department of highways shall
7 be considered to be a state agency within the meaning
8 of this article. To the extent that such department may
9 expend funds or make payments pursuant to the pro-
10 visions of this article and such rules and regulations, such
11 expenditures or payments are hereby declared to be a
12 cost of highway construction and may be expended and
13 paid from the state road fund.

14 Neither the provisions of this article nor any rules and
15 regulations promulgated pursuant to section three of this
16 article shall be construed or interpreted so as to create
17 any element of value or damage not in existence prior
18 to the effective date of this article in any condemnation
19 proceedings brought under the power of eminent domain
20 exercised by any state agency except to the extent, if
21 any, required by applicable law of the United States; but,
22 notwithstanding any other provision of law, whenever a
23 state agency in a condemnation proceeding pays a sum
24 into court as representing the fair market value of prop-
25 erty to be acquired, the amount of the award or verdict
26 pertaining to such property shall not be less than such
27 sum.

28 Any state agency may provide assistance as contem-
29 plated in such federal act even though the dislocation or
30 acquisition occasioning the same occurred prior to the
31 effective date of this article if federal funds are available
32 for the payment of any such assistance.

§54-3-5. Severability.

1 If any provision of this article or the application thereof
2 to any person or circumstance is held unconstitutional or
3 invalid, such unconstitutionality or invalidity shall not
4 affect, impair or invalidate other provisions or applica-
5 tions of the article, and to this end the provisions of this
6 article are declared to be severable.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Russell G. Bell
Chairman Senate Committee

Phyllis J. Rutledge
Chairman House Committee

Originated in the House.

Takes effect from passage.

Howard Carlson
Clerk of the Senate

Ch Blankenship
Clerk of the House of Delegates

E. H. McCurt
President of the Senate

Lewis M. M. Mansur
Speaker House of Delegates

The within approved this the 27th
day of March, 1972.

Arch A. Shreve Jr.
Governor



THE UNIVERSITY OF MICHIGAN
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DATE 3/20/72
TIME 10:19 a.m.